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10/673,059	09/26/2003	Stefan Baggstrom	944-1.117	1237

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EXAMINER

PEREZ, JULIO R

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/673,059

Applicant(s)

BAGGSTROM ET AL.

Examiner

JULIO R. PEREZ

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-10 and 12-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10,12-15, 19, 20- 23 is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7,16 and 18 is/are rejected.
- 7) ☒ Claim(s) 5 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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DETAILED ACTION

1. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1- 3, 6-7, 16,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperrovich (WO99/30479) in view of Chitrapu (US 20040092265) and Carlson (US 20030026399).

Regarding claim 1, Alperrovich discloses a device obtaining information about one currently active cellular network system to which the device has one active connection for respective connected applications hosted by the device (page 3, lines 19-22, teach identification of cellular networks within the area coverage of the mobile for determining the available systems as information is exchanged with each cellular system); and deciding whether to allow establishing a new connection to one of the currently active cellular network systems on behalf of another application hosted by the device (page 4, lines 23-32-page 5, lines 1-4, 16-27, and claim 1, lines 10-14, further teach a new connection being performed based on a cellular system having a lower rate, which reads on connecting to another cellular system with an application, i.e., deciding on use of favorite factors, within the device), but is silent on based on factors including the information about currently active network systems.

Chitrapu teaches information about combinations of different connections allowed by each currently active network system (Fig. 2, #'s 14a, 22, 24, Fig. 4, #'s s2, s4; par. 15, lines 1-12; pars. 16-17).

It would have been obvious to one skilled in the art at the time of the invention to modify Alperrovich, such that the device would generate indication of changing to a different system based on information that is appropriate for continuing the connection for more efficient and accurate communication.

Alperrovich in view of Chitrapu does not explicitly show wherein the information includes at least the number and type of connections currently in use.

Carlson teaches determining number of carriers; i.e., at least number of connections for selection of the system (Figure 2, 3's 201, 203; Figure 6, #'s 601, 607, par. 45, lines 1-11).

It would have been obvious to one skilled in the art at the time of the invention to modify Alperrovich and Chitrapu, such that includes at least the number and type of connections currently in use, to provide means to detect amount of traffic or load within the system and improve and secure the connectivity to the selected system.

Regarding claim 2, the combination discloses, wherein the information about currently active cellular network systems includes information about combinations of different kinds of connections allowed by each currently active cellular network system (Chitrapu, col. 1, lines 40-49; col.. 2, lines 36-51; col. 3, lines 5-10; col. 4, lines 25-35, 50-67; col. 6, lines 58-67-col. 7, lines 1-2).

Regarding claim 3, the combination discloses, wherein the factors also include information about connections currently in use or wherein the information about currently active cellular network systems includes information about connections currently in use (Chitrapu, pars. 16-17, par. 22, lines 5-13).

Regarding claim 6, the combination discloses the factors also include the maximum amount of concurrent packet switched data allowed by the connections currently in use (Chitrapu, pars. 16-17, par. 22).

Regarding claim 7, the combination discloses the active cellular network systems include at least a GSM network, a WCDMA network, or a CDMA2000 network (Chitrapu, Fig. 3, includes GSM cellular system, # 26).

Regarding claim 16, the combination discloses embodying computer program code thereon for execution by a computer processor in a telecommunication terminal, with said computer program code characterized in that it includes programming instructions (Chitrapu, Fig. 4, #'s 2, 4, 6, 7; par. 23, lines 15).

Regarding claim 18, the combination discloses embodying computer program code thereon for execution by a computer processor in a telecommunication terminal, with said computer program code characterized in that it includes instructions for performing the steps (Chitrapu, par. 23, lines 1-15).

Allowable Subject Matter

5. Claims 5, 17, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 8-10, 12-15, 19, 20,23, are allowed.

Response to Arguments

Applicant's arguments filed 05/05/08 have been fully considered but they are not persuasive. Applicant argues that the combination of Alperrovich and Chitrapu does not Alperrovich does not disclose or suggest that the communication device has an *active* connection to *each* of the currently active cellular network systems, as required by claim 1 of the current invention taking into account "factors including the information about *currently active* cellular network systems," as claimed, as the information on the BCCH

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can be received while the mobile terminal is in idle mode and thus not having an active connection to the network. Further, Alperrovich discloses that the BCCH information provided to the communication device includes network *identity* information, whereas claim- 1 of the current invention requires that the information include at least *the number and the type* of the active cellular network systems available for connection, not merely identity. However, the examiner respectfully disagrees, passages on page 4, lines 23-32-page 5, lines 1-4, 16-27 as well as claim 1, lines 10-14, describe new connection being performed based on cellular system with application having lower rate, which reads on connection of the device to another system with an application, i.e., a decision taken based on favorite factors within the device. In addition, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, there are factors including the information about currently active networks; otherwise, how will the device continue communicating with other systems without having other alternatives of communication if there were no other systems to roam to or connect to? Thus, even though Alperrovich does not expressly disclose factors including the information about currently active networks, one skilled in the art would conceptualize that the factors including the information about currently active networks are necessary for devices to continue with secure and efficient connections.

The Examiner points out to the teachings of Chitrapu for further reference and support of this well known feature. Thus, one skilled in the art would combine these teachings to arrive at the present invention in order to increase the flexibility in providing flexibility in terms of continuing transmission with different applications as hosted by the devices.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JULIO R. PEREZ whose telephone number is (571)272-7846. The examiner can normally be reached on 10:30 - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc M. Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nick Corsaro/
Supervisory Patent Examiner, Art Unit 2617

/Julio R Perez/
Examiner, Art Unit 2617

7/20/08